



Pacific PEER

Public Employees for Environmental Responsibility

June 6, 2019

Regional Freedom of Information Officer
U.S. EPA, Region 9
75 Hawthorne Street (OPPA-2)
San Francisco, CA 94105

RE: FOIA REQUEST

Dear FOIA Officer:

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended, Public Employees for Environmental Responsibility (PEER) requests records regarding the hazard ranking system (HRS) scores of sites evaluated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). 40 C.F.R. 300.425(c)(1) for the Navy facilities at Naval Station Treasure Island in the San Francisco Bay. Specifically, we request the following:

1. The HRS scores and scoring sheets for the Treasure Island sites, prepared by the Environmental Protection Agency (EPA), its contractors, or any other entity to which EPA delegated HRS scoring; and
2. Decision documents regarding these reviewed sites explaining why they were not listed as National Priority List (NPL) sites, including the articulated position of the state on proposed listing as well as the actual reference documents containing the data principally relied upon and cited by the EPA in calculating or evaluating the HRS score for the sites, and the rationale for the decision not to list.

For any documents or portions of documents that you block release due to specific exemption(s) from the requirements of the Freedom of Information Act, please provide an index itemizing and describing the documents or portions of documents withheld. The index should, pursuant to the holding of *Vaughn v. Rosen* (484 F.2d 820 [D.C. Cir. 1973] cert. denied, 415 U.S. 977 [1974]), provide a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld.

To the extent that EPA needs to perform a detailed review, PEER requests that all fees be waived because “disclosure of the information is in the public interest . . . and is not primarily in the commercial interest of the requestor” (5 U.S.C. 552 (a)(4)(A)):

1. The subject matter of the requested records must specifically concern identifiable operations or activities of the government.

The FOIA request is, by its terms, limited to identifiable activities of EPA and its employees, contractors, or designees.



Pacific PEER

Public Employees for Environmental Responsibility

2. For the disclosure to be “likely to contribute” to the understanding of specific government operations or activities, the releasable material must be meaningfully informative in relation to the subject matter of the request.

The requested material consists of documents containing EPA’s review and ranking of hazardous sites and decision documents relating to listing under CERCLA. As such, the requested records are the most meaningful documents that could be requested on EPA’s treatment of these sites.

3. The disclosure must contribute to the understanding of the public at large, as opposed to the understanding of the requestor or a narrow segment of interested persons.

The general public has a keen interest in any factor bearing on the public health. As the underlying subject matter of this request concerns sites subject to inspection for hazardous waste, the public has an acute interest in ensuring that the sites are properly remediated.

In addition, the status of the Treasure Island sites and its cleanup have been the subject of extensive media coverage. The requested materials contain information not heretofore publicly known and would be of [particular public interest within the San Francisco Bay Area.

Finally, the requested material would reveal the extent to which political considerations influence hazardous waste legal classifications.

PEER intends to provide the requested information to the general public through —

- Release to the news media;
- Posting on the PEER website which draws between 1,000 and 10,000 viewers per day; and
- Publication in the PEER newsletter that has a circulation of approximately 20,000, including 1,500 environmental journalists.

Through these methods, PEER generates an average of 1.5 mainstream news articles per day. Moreover, the existence of publicly maintained website by the U.S. Navy on Treasure Island and its cleanup denotes the broad public interest in the subject matter of this request.

4. The disclosure must contribute “significantly” to public understanding of government operations or activities.

The requested information will shed light on EPA’s review of hazardous sites and the treatment of sites not subject to corrective action under CERCLA.

The records will show the reasons why these sites were not listed on the NPL. It will enable the public to compare the level of remedial treatment accorded to sites deferred to RCRA versus those designated for inclusion on the NPL. Both topics would give interested publics new insights into the course of remediation for the highly controversial treasure Island cleanup.

5. The extent to which disclosure will serve the requestor’s commercial interest.



Pacific PEER

Public Employees for Environmental Responsibility

Disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation's resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code.

6. The extent to which the identified public interest in the disclosure outweighs the requestor's commercial interest.

As stated above, disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation's resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501 (c) (3) of the Internal Revenue code.

If you have any questions about this FOIA request, please contact me at (202) 265-PEER. I look forward to receiving the agency's final response within 20 working days.

Cordially,

Jeff Ruch
Pacific PEER Director